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Publication date:
2016

[Link to publication in University of Groningen/UMCG research database](#)

Citation for published version (APA):

Bouma, H., López López, M., Knorth, E., & Grietens, H. (2016, Sept). Briefing on the Dutch Child Protection System.

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Briefing on the Dutch Child Protection System

Helen Bouma, Mónica López López, Erik Knorth & Hans Grietens

Child protection legislation and policy has been developing continually, due to several influences. Dutch child protection policy is determined by national as well as international laws. The UNCRC has played a key part in the legislation and policy on child protection since 1995. Besides the UNCRC, article three and eight of the ECHR are relevant to child protection (Memorie van Toelichting Jeugdwet, 2013, chapter 9). Since 2015, the Youth Act has formed the legal and policy framework of the Dutch youth care system, which covers the child protection system.

Youth Act 2015

In 2015, the Youth Act took effect, which replaced the Act on Youth Care 2005. An important aspect of this new act is the decentralisation of the youth care system: since 2015, the municipalities have been responsible for the organisation and functioning of youth care; besides prevention, municipalities have to arrange youth support, child protection measures and juvenile rehabilitation. The organisation of the youth care at the level of the municipalities aims to contribute to the accessibility of youth care and therefore to the prevention and early detection (NJI, n.d.b.). Within this new law, municipalities have an obligation to care: they are obliged to organise the care that youth need. Their policy should focus on the following key themes: prevention and early detection of problems, strengthening the pedagogical climate, strengthening the opportunities and the problem solving abilities of youth and their social networks, improving the safety of youth and their child rearing environment, an integral approach, and conducting and performing family group plans (Jeugdwet, 2014, article 2.1).

An integral approach

Many agencies and professionals are involved in the youth care system and the child protection system. The seriousness, complexity and the prevalence of child maltreatment require high standards for the quality of youth care (Baartman, 2005), which makes an integral, multi-disciplinary approach necessary (Gezondheidsraad, 2011; Jeugdzorg Nederland,

2013; Ministerie van VWS & Ministerie van V&J, 2011). The use of an integral approach is therefore an important theme in Dutch legislation and policy: all agencies and professionals involved in the chain of child protection have to cooperate (Jeugdzorg Nederland, 2013a) in order to fulfil the basic principle 'one family, one plan and one director' (Memorie van Toelichting Jeugdwet, 2013, chapter 1.1).

The chain of child protection

Advice and Reporting Centre Domestic Violence and Child Maltreatment (AMHK¹)

> Figure 1: flow chart of the AMHK

The Youth Act led to the combining of the Advice and Reporting Centre for Child Maltreatment and the Support Centre for Domestic Violence, to form the AMHK (Memorie van Toelichting Jeugdwet, 2013, chapter 4.5). So, the AMHK does not only receive reports of child maltreatment, but it also deals with (domestic) violence between adults. This integration aims to make it clearer to citizens and professionals where they can ask for advice or report cases of violence in family situations (Ministerie van VWS, 2014).

¹ The term AMHK is the name used in legislation; in the practice field, the name *Veilig Thuis*, which means safe home, is mainly used.

Everyone who has concerns about child maltreatment, for example neighbours, teachers, parents, or professionals, can contact the AMHK. Someone can call for advice or to report a case of child maltreatment. When someone calls for advice, the AMHK advises the caller; this can be a single advice or a follow-up advice. When the caller reports a case to the AMHK, the personal details of the reported family will be registered; this is only the case for a report. However, when someone calls to ask for advice, but the professional of the AMHK has serious concerns about the case, the professional can ask the caller to report the case. To undertake action, an official report is necessary. When the caller does not want to report the case, the AMHK can decide to report the case themselves. The opposite is also possible: a report can be registered as an advice when there are insufficient indicators for suspicions of child maltreatment and/or when the reporter did not use all the own resources to change the situation (Baeten, 2014).

The AMHK discusses each report in the triage: a peer consultation or multi-disciplinary consultation in which the professionals decide on the priority of the report, the required next steps and who will have the responsibility for these. The three main decisions that are made after a report are to refer the case to social care services already being accessed, to arrange new social care services or to start an investigation by the AMHK. The criteria used by the AMHK to decide on the next steps are presented in figure 2, a translation of the guidelines set up by the VNG.

The investigation aims to examine if child maltreatment is present and which next steps are required. The AMHK can decide that no (further) support is needed, that the family should be referred to social care services, or that an investigation by the Child Protection Board is needed (Baeten, 2014).

Child Protection Board (CPB)

> *Figure 3: flow chart of the CPB*

The CPB is nationally organised and falls within the Ministry of Safety & Justice. Executing the child protection investigations is one of the several tasks of the CPB: it is also involved in investigations regarding custody, juvenile justice and adoption (Raad, 2015a). Here, the focus will be on the child protection investigations of the CPB.

Whereas everybody can report to the AMHK, this is not the case for the CPB. As already mentioned, the AMHK can request that the CPB starts a child protection investigation. Besides the AMHK, certified agencies and local authorities are authorised to request that the CPB investigates a case. Also, the CPB itself can decide to start a child protection investigation for cases in which they are involved for other types of investigations, such as a custody investigation. Only in exceptional cases, in acute and serious threatening situations, can anyone report cases to the CPB (Jeugdwet, 2014, article 3.1; Raad 2015a). These requests need to be substantiated with documents in which previous voluntary support is described and why this voluntary support had not had enough impact or had not worked at all. Furthermore, the social network of the family and its support have to be described in the request (Raad, 2015b).

The incoming requests are assessed by the Advice Teams of the CPB, which exist since 2015. These teams decide if the CPB should start an investigation. Furthermore, the parties mentioned above can discuss a case with the Advice Team if they are considering whether to request a child protection investigation. Involving the CPB as an advisor in an earlier stage aims to prevent the necessity of involuntary child protection measures (Raad, 2015b).

When the CPB starts an investigation, this should be executed according to the principles and guidelines as described in their Quality Framework and their Protocol for Protection Cases. An important issue in this is that the best interest of the child should form the basic principle in a child protection investigation; the investigation needs to focus on the (physical) safety and the development of the child. During the investigation, the family situation of the child is examined through conversations with the child, parents and other persons involved in the family. The investigation is concluded with a report including information on the development of the child, the child rearing situation, the (child rearing) situation of other children in the family, risk factors and protective factors relating to the child and the family, and relevant information from other persons, such as teachers or social workers working with the family (Raad, 2015a; Raad, 2015b).

Based on this investigation, the CPB decides whether an involuntary child protection measure is necessary. When the CPB decides that no child protection measure is needed, they refer the family to a local authority without interference of the juvenile court. However, when the local authority still has serious concerns and thinks a child protection measure is necessary, the burgomaster can request that the

juvenile court enforces a child protection measure (Raad, 2014). When the CPB believes that a child protection measure is needed, the CPB advises the juvenile court to enforce this (Raad, n.d.).

Besides their advising and investigating role, the CPB has an assessing and supervising role. When the juvenile court enforces a child protection measure, the certified agencies are responsible for the delivery of these measures. These agencies can request that the juvenile court ends or extends a child protection measure. The CPB has to assess these requests, substantiated by a report of the certified agency (Raad, 2015b).

Juvenile court

Only the juvenile court can actually enforce a child protection measure. In making its decision, the juvenile court uses the report and considers the advice of the CPB. However, the juvenile court is not obliged to follow the advice given. Besides this report, the juvenile court talks with the parents involved and children older than 12 years. The juvenile court can call up children younger than 12 years or these children can request a consultation (Topberaad Jeugd, 2014). The juvenile court can enforce several child protection measures. They can enforce a supervision order, with or without an out-of-home placement, and they can overrule parental authority (Raad, 2015a).

In the case of a supervision order, the authority of the parents is restricted and partly taken over by an official guardian from a certified agency; the parents remain responsible for the care of their child, but they are obliged to follow the advice of the guardian. In addition, an out-of-home placement is possible during a supervision order (Memorie van Toelichting Jeugdwet, 2013, chapter 5.2). Article 255 of Civil Law includes the conditions of a supervision order. The juvenile court can enforce a supervision order when a minor's development is threatened, when the required support to take away this threat is not accepted sufficiently and when it is expected that the (authorised) parents are able to accept the responsibility of child rearing for an acceptable term (Burgerlijk Wetboek, book 1, article 255). The maximum length of a supervision order is one year. However, until the child is 18 years old, this can be prolonged by the court every year (Burgerlijk Wetboek, book 1, article 258 and 260). The juvenile court can end the supervision order when the grounds for the supervision order are no longer valid (Burgerlijk

Wetboek, book 1, article 261). It is possible to enforce a supervision order during pregnancy: article two of Civil Law describes that an unborn child is seen as having already been born when this is in the best interest of the child (Burgerlijk Wetboek, book 1, article 2; Memorie van Toelichting Wet herziening maatregelen kinderbescherming, 2014).

In cases of real and immediate danger and where there are substantial grounds for a supervision order, a temporary supervision order and a temporary out-of-home placement can be enforced. A temporary supervision order lasts at most three months (Burgerlijk Wetboek, book 1, article 257). This measure makes immediate action possible.

Besides enforcing a supervision order, the juvenile court can end parental authority. Until 2015, ending parental authority was possible by enforcing two different measures. Since 2015, these two measures have been replaced by one new measure, aiming to simplify the child protection measures (Memorie van Toelichting Wet Herziening Maatregelen Kinderbescherming, 2014, chapter 5.3). The criteria for ending parental authority are described in article 266 of Civil Law: the juvenile court can end parental authority when parents make improper use of their authority or when the development of the minor is seriously threatened and parents cannot be responsible for raising and caring for their child for an acceptable period of time (Burgerlijk Wetboek, book 1, article 266). A guardian will be appointed and the child will be placed out-of-home (Memorie van Toelichting Jeugdwet, 2013, chapter 5.2).

Besides definitive overruling of parental authority, it is possible to suspend the authority, partially or totally, for a certain period. This is possible when there are substantial grounds for ending parental authority. Another reason could be when medical treatment for a child younger than 12 years, or a child who cannot be held responsible for making decisions about his or her best interests, is necessary to avoid serious danger for the child's health and when the parent does not give permission for this treatment. This child protection measure can last up to three months. The suspension of parental authority can become definitive ending of the parental authority, in accordance with article 266 (Burgerlijk Wetboek, book 1, article 268).

Certified agencies

The enforced child protection measures have to be performed by certified agencies (Jeugdwet, 2014, article 3.2). The requirement of certification has existed since 2015, aiming to improve the quality of the execution of child protection measures. To become certified, an agency has to meet several legal requirements, related to expertise, methods, interventions, organisation and processes and cooperation with other agencies.

Following the decision of the juvenile court, the CPB transfers the case to the certified agency. Within the certified agency, a guardian is appointed. This guardian gives the family and the social network of the family the opportunity to set up a plan to ensure and to improve the safety and development of the child. After this, a strategy will be determined in a multidisciplinary meeting. During the execution of this plan and strategy, progress will be constantly monitored (Simons, Meertens, & Tielen, 2015).

Furthermore, the guardian decides which type of youth care is necessary. However, the certified agencies are not allowed to offer regular youth care themselves; this support has to be delivered by other agencies. Guardians of certified agencies are mainly case directors instead of social care providers; they can decide which youth care is needed and they can, in cooperation with the municipality, arrange this (Memorie van Toelichting, Jeugdwet, 2013, article 3.2 and 3.4).

Besides this, the police could report cases to the AMHK. The police often encounter cases in which children live in alarming circumstances. This could include directly threatening situations in which the child is a victim of child maltreatment, children witnessing domestic violence, children who have run away, or cases of prostitution. Furthermore, the police have a method for detecting risky child rearing situations for children younger than 12 years old (ProKid) (Topberaad Jeugd, 2014). Using this method, the police report cases of witnessing domestic violence or criminal behaviour of children younger than 12 years old (Pattje, 2015).

Besides the police, the Public Prosecution Department has a role in the chain of child protection. First, they can ask the juvenile court to enforce a child protection measure; for example in addition to a punishment regarding juvenile rehabilitation or when parents are detained (Topberaad Jeugd, 2014). Furthermore, the Public Prosecution Department is involved in the criminal justice aspect of child maltreatment. They search for a way in which Criminal Law can contribute to long lasting improvements and a safer life of the child (OM, n.d.b.). In considering the use of criminal law, they cooperate with several agencies, such as the CPB. In determining the sanction, the protection of the child forms the basic principle. Furthermore, support for the family and possible other civil decisions are considered (OM, n.d.a.).

Police and the Public Prosecution Department

The police and Public Prosecution Department can be involved in cases of child maltreatment in several ways. Guidelines have been drawn up regarding cooperation between the AMHK and the police, aiming to improve safety (Pattje, 2015; Topberaad Jeugd, 2014). The AMHK always requests information from the police about the persons involved in a report (Pattje, 2015). The police can also get involved during the triage and investigation, to improve the safety of the child. This is mainly done in cases of severe child maltreatment (physical abuse, physical neglect, sexual abuse, honour related violence, circumcision of girls and forced marriages). Another reason to involve the police could be when the AMHK has serious suspicions about the criminal behaviour of one of the persons involved (Baeten, 2014).

Figure 1. Flow chart of the AMHK

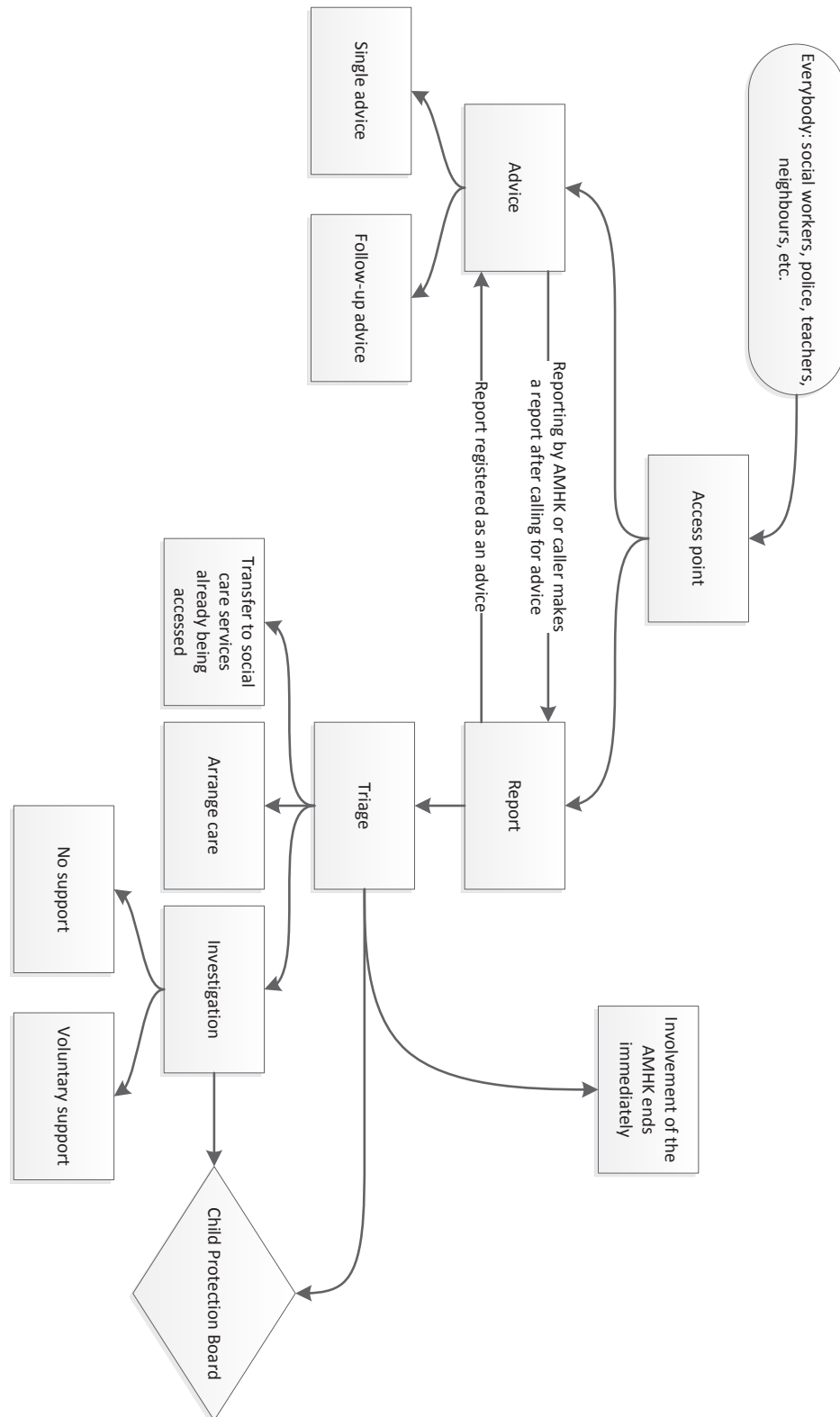


Figure 1. Flow chart of the AMHK (based on the AMHK protocol of Baeten, 2014).

Figure 2. Criteria of the AMHK to start an investigation

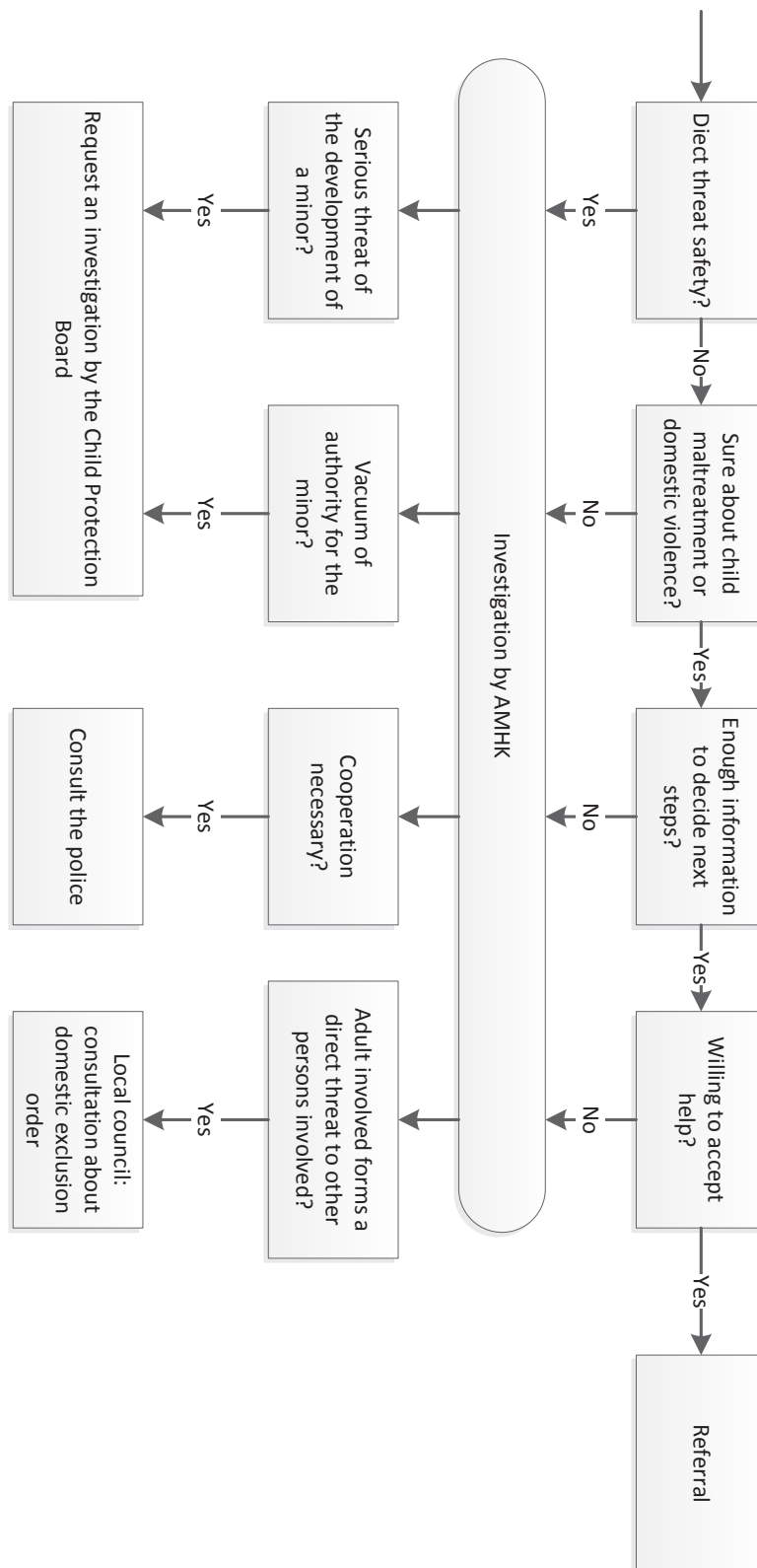


Figure 2. Criteria of the AMHK to start an investigation (translation of the figure in “VNG-model protocol for the advice and reporting centre domestic violence and child maltreatment ‘Safe Home’”, p.21, Baeten (2014)).

Figure 3. Flow chart of child protection investigations by the CPB

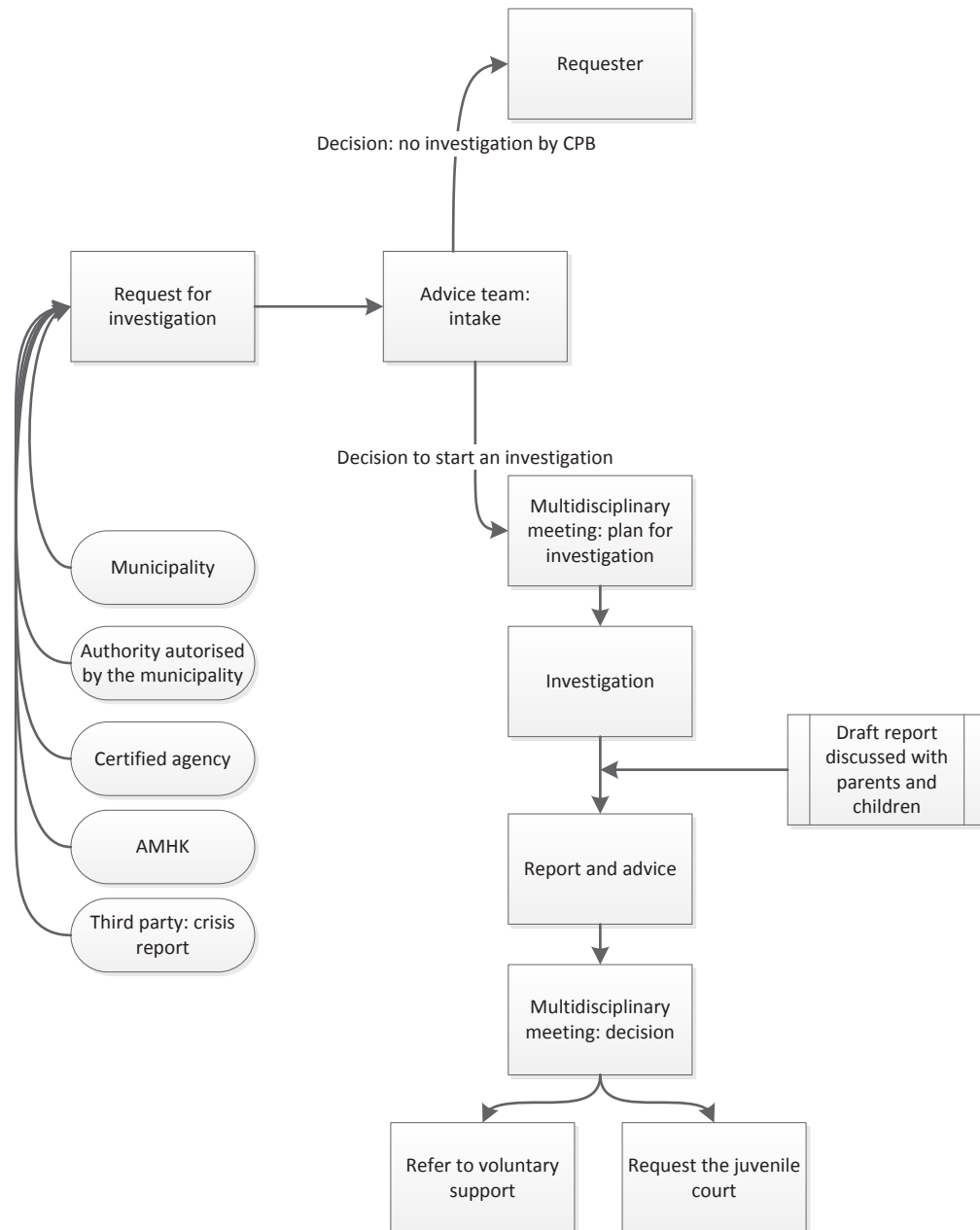


Figure 3. Flow chart of child protection investigations by the CPB (based on the process model chain of child protection of Topberaad Jeugd, 2014).

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